

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

HAROLD M. HOFFMAN, individually and  
on behalf of those similarly situated,

Plaintiff,

V.

COUNTRY LIFE, LLC,

Defendant.

**Civil Action No. 13-5565 (SRC)**

## OPINION

**CHESLER**, District Judge

This matter comes before the Court upon the motion filed by Defendant Country Life, LLC (“Defendant”) to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). The motion was returnable on November 4, 2013, and thus, pursuant to District of New Jersey Local Civil Rule 7.1(d), opposition to the motion was due on or before October 21, 2013. Plaintiff Harold M. Hoffman, Esq. (“Plaintiff”) did not oppose the motion but rather, by letter dated and filed October 21, 2013 informed the Court that he does not intend to oppose the motion because it is his position that this Court lacks subject matter jurisdiction and should therefore remand the action to state court. Plaintiff, indeed, had filed a motion to remand this action just days after Defendant filed the motion to dismiss. The motion to remand was denied by the Court by Opinion and Order dated November 20, 2013. Though four weeks have passed since the motion to remand was decided, Plaintiff has failed to file opposition to the motion to dismiss or to make a request that the Court grant him leave to file opposition outside of the schedule set by Local Rule 7.1(d).

In light of Plaintiff's express statement that he will not oppose the motion to dismiss because he feels that the case must be remanded, and his continuing failure to oppose the motion to dismiss despite the Court's determination that it has federal subject matter jurisdiction over this case, the Court construes Plaintiff's conduct as a failure to prosecute this action. Therefore, pursuant to Federal Rule of Civil Procedure 41(b), the Court will grant Defendant's motion to dismiss. An appropriate order will be filed.

s/ Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge

Dated: December 18, 2013